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THE MAYFLOWER COMPACT

BY

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THE MAYFLOWER COMPACT

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THE incident in Pilgrim history often selected as best representing the idea of civil liberty and local self-government is the signing of the Compact.

The poet and the artist are more successful than are the historians in preserving and symbolizing some of the great events of human history. The canvas of Sargent portrays and the verses of Mrs. Hemans describe their ideas of the Landing at Plymouth rather than what in fact happened on the Plymouth shore on the 21st of December, 1620. But the picture and the poem have impressed themselves upon the popular imagination and best describe the idea of the Landing which is held apparently by the great majority of English-speaking people who have occasion to consider that event.

Monuments are erected, historical and hereditary patriotic societies meet on the 21st day of successive Novembers to commemorate the signing of the Compact on that day in 1620, because the Compact expresses and typifies to them that ideal of civil liberty and pure democratic government which Theodore Parker first expressed in the line which Lincoln made famous:—

"Government of the people, for the people, and by the people."

In 1841, Dr. Alexander Young, the learned annalist and editor of "The Chronicles of the Pilgrim Fathers," printed therein, under the title of "Bradford and Winslow's Journal, A Diary of Events from November 9, 1622 to December 11, 1621," that early relation of events usually cited as "Mourt's Relation," published in London in 1622.

In "Mourt's Relation," which contains the earliest printed reference to the instrument now known as the "Mayflower Compact," it is stated that "This day before we came to harbor, observing some not well affected to unity and concord but gave some appearance of faction, it was thought good there should be an association and agreement that we should combine together in one body and to submit to such government and governors as we should by common consent agree to make and choose and set our hand to this that follows word for word." Then appears for the first time in print the familiar Compact.

In Dr. Young's note to that extract from "Mourt's Relation" he says—

> "And yet it seems to me that a good deal more has been discerned in this document than the signers contemplated. * * Their purpose in drawing up and signing this compact was merely, as they state, to restrain certain of their number who had manifested an unruly and factious disposition. This was the whole philosophy of the instrument, whatever may since have been discovered and deduced from it by astute civilians, philosophical historians and imaginative orators."

Since I first read this statement of Dr. Young some years ago, I have given some consideration to the real meaning, purpose and effect of this agreement, as Bradford terms it, the circumstances which occasioned it, and the form of government adopted by the Pilgrims before leaving England, under the provisions of their patent. The result of that inquiry I take this occasion to submit for your consideration.

It may be noted in the first place that this instrument was not signed in the harbor of Provincetown, as often erroneously stated. The statements of Bradford and Winslow in "Mourt's Relation" that the instrument was executed "before we came to harbor," is conclusive.

It is an interesting fact that the term "compact" apparently was not applied to that instrument before 1793. The elaborate researches of Mr. Albert

Matthews and Mr. George E. Bowman show no earlier references. Mr. Bowman notes that the word "compact," as applied to this agreement, first appears in "A Topographical Description of Duxborough, in the County of Plymouth," by Alden Bradford, which was published in the Collections of the Massachusetts Historical Society's first series, Volume 2:

"John Alden, who came to Plymouth in 1620, was one of the signers of the compact established immediately upon the arrival of the first settlers," etc.

The reference to the instrument found in "Mourt's Relation," describes it as "an association and agreement." Bradford, in his History of Plymouth Plantation, (Ford, Volume 1, Page 189,) refers to it as a "combination made by them before they came, a shore," and states that it was—

"Occasioned partly by the discontented and mutinous speeches that some of the strangers amongst them had let fall from them in the ship; That when they came ashore, they would use their owne libertie, for none had power to command them, the patente they had being for Virginia, and not for New england, which belonged to another Government with which the Virginia company had nothing to doe"

And in the Plymouth Colony Records, the same term "combination" is used. In Prince's Chronological History, he refers to it as "a solemn contract," and the Rev. Charles Turner, in his sermon at the church in Plymouth in 1774, describes it as "the covenant." The Rev. Chandler Robbins defines it as "a solemn contract" in his Anniversary Sermon in 1793.

The first historian or orator who found in it the meaning and importance which is sometimes given to it at the present time, when referred to in public addresses, was John Quincy Adams, in his oration at Plymouth in 1802.

The most complete account of the cause and effect of the Compact, and the one which most fully and accurately defines the antecedent procedure of the

Pilgrims in the matter of civil government, written by an historian of the 17th century, is by the Rev. William Hubbard in that manuscript history which secured for the author a grant from the General Court of fifty pounds in 1682, "as a manifestation of thankfulness" for his work.

He was born in 1621, graduated in the first Harvard Class of 1642, and settled in the ministry at Ipswich in 1656 or 1657, and died in 1704. He is described as "a learned and ingenious author," by the Rev. Thomas Prince.

The Rev. John Eliot, in his "Ecclesiastical History of Massachusetts and the old Colony of Plymouth" pays to William Hubbard this high compliment: "He was the best writer in New England while he lived; learned, judicious and capable of giving a proper arrangement to his facts." (M. H. S. Coll. First Series, Vol. VII, page 263.) Hubbard writes:

"That which our Savior once affirmed concerning a kingdom is as true of the smallest colony, or puny state, or least society of mankind, that if it be divided against itself it cannot stand; and how can divisions be avoided where all sorts of people are to be at their liberty, whether in things civil or sacred, to do all that doth, and nothing but what doth, seem good in their own eyes. Our first founders of this new colony, were aware of this, before they removed themselves from the parts of Europe, whether England or Holland, to those of America, and, therefore, according to the prudent advice of Mr. Robinson, their Pastor, they had procured a Patent for themselves, or had a power granted from their Sovereign Prince, whereby they might form themselves into a body politic in the place specified in their Patent. But missing of the place, the things contained therein were utterly invalidated, and made useless thereby, which they wisely considered in the first place, as was said before, and therefore they all signed an instrument, concerning some way of order and government, which they, according as necessity required, intended to mould themselves into, upon the first opportunity which should offer itself, after they found a place of habitation fit to settle upon. By the aforesaid accident, things so fell out, that for the present they could not fall into any order of government, but by way of combination; with which they intended to content themselves till occasion might serve for the obtaining another Patent from

the King, for that place where Providence now had cast their lot. For the present, therefore, they devolved the sole power of government upon Mr. John Carver, in whose prudence they so far confided, that he would not adventure upon any matter of moment without consent of the rest, or at least advice of such as were thought to be the wisest amongst them, and not to increase the number of rulers where the persons were so few to be ruled; knowing also that they could at their pleasure add more as there might be occasion, much better than to have eased themselves of the burden, if they should pitch upon too many at first. One Nehemiah is better than a whole Sanhedrim of mercenary Shemaiahs.

"The Laws they intended to be governed by were the Laws of England, the which they were willing to be subject unto, though in a foreign land, and have since that time continued in that mind for the general, adding only some particular municipal laws of their own, suitable to their constitution in such cases where the common laws and statutes of England could not well reach or afford them help in emergent difficulties of the place, possibly on the same ground that Pacuvius sometimes advised his neighbors of Capua, not to cashier their old magistrates till they could agree upon better to place in their room. So did these choose to abide by the Laws of England, till they could be provided of better."

This statement of Hubbard's that their combination or compact was the instrument merely "with which they intended to content themselves till occasion might serve for the obtaining another Patent from the King, for that place where Providence now had cast their lot," is a clear statement by one of the foremost authorities of that century in which the Compact was written that the instrument was but a temporary expedient, based upon the scheme of a body politic found in their first patent and described by Robinson in his letter hereafter referred to, and entirely superseded upon the arrival of the second patent, defining their powers and conferring an authority which they fully recognized as of superior weight.

The text of the Compact varies slightly in punctuation and a few verbal changes not material to the enquiry, as printed in "Mourt's Relation," Bradford's "History of Plymouth Plantation," and Morton's

"New England's Memoriall." In "Mourt's Relation" it is printed as follows:

"In the name of God, Amen. We, whose names are underwritten, the loyal Subjects of our dread soveraigne Lord King James, by the grace of God, of Great Britaine, France, and Ireland King, Defender of the Faith. &c.

Having undertaken for the glory of God, and advancement of the Christian Faith, and honour of our King and Countrey, a Voyage to plant the first Colony in the northerne parts of Virginia, doe, by these presents, solemnly and mutually, in the presence of God & one of another, covenant and combine ourselves together into a civill body politike, for our better ordering and preservation, and furtherance of the ends aforesaid; and by vertue hereof, to enact, constitute, and frame such just and equall Lawes, Ordinances, acts, constitutions, offices, from time to time, as shall be thought most meet and convenient for the generall good of the Colony: unto which, we promise all due submission and obedience.

In witnesse whereof we have here-under subscribed our names, Cape Cod, 11 of November, in the yeare of the raigne of our soveraigne Lord King James, of England France and Ireland 18. and of Scotland 54. Anno Domino 1620."

Its recitals follow the formal phrasing of the time and describe its signers as the loyal subjects of the King of England. It states the purpose of their undertaking to be for the glory of God and advancement of the Christian Faith and honor of our King and country, and to plant the first colony in the northern part of Virginia. Then follows the expression not unlike that found in the Church covenant, "We do by those presents solemnly and mutually in the presence of God and of one another covenant and combine ourselves together."

The political agreement follows the phraseology of the religious agreement. It presents in form the Church covenant idea, and properly uses the term covenant. The material provisions of the Compact' which follow, are three in number: first, the organization of a civil body politic for certain definite purposes (a) their better ordering, (b) their preservation, (c)the glory of God and the honor of King and country ,

and (d) the planting of a colony in the northern part of Virginia; secondly, to enact, constitute and frame just and equal laws, ordinances, acts, constitutions and offices from time to time as shall be thought most meet and convenient for the general good of the colony; and thirdly, their promise to pay to these just and equal laws, ordinances, acts, constitutions and offices all due submission and obedience.

It may be here noted that the promise was a cautious and a qualified one. There was no unlimited and unrestricted submission and obedience pledged to any law, ordinance, act or constitution which might be framed, or to any office which might hereafter be established, for it was distinctly provided that their submission and obedience was to just and equal laws, ordinances and constitutions. Was the individual Pilgrim or were a majority of the Pilgrims, or all of the Pilgrims, to determine whether the law, to which they pledged submission and obedience, was just and equal or not? Was the law to be enacted by all or a part of the Company? Was it necessary before the law became effective and compulsory that all should assent to it, or was the law enacted by a majority binding on the minority? Some ingenuity has been exercised by commentators upon the importance of the qualifying adjectives "just" and "equal," and high praise paid to the wisdom and foresight which thus defined the laws which they were to enact and promised to obey. But that qualification had but a brief life in the history of legislation, colonial, provincial, state and national. It lasted with the Pilgrims not later than the arrival of the Fortune in 1621.

Over the entrance of your Court House, I note the fine line, "Obedience to Law is Liberty." If you had written in the words "just and equal laws," in place of "Law," its meaning and effect would be materially changed. When the will of the majority is expressed in law today, the only relief from its provisions,

which may seem to some unjust or unequal, is that the law as enacted is unconstitutional. If the law were not binding on anybody who thought it unjust and unequal, we should not proceed far with its strict enforcement. If we assume that the Pilgrim meant that all laws passed by the majority were of a necessity just and equal and binding upon a recalcitrant minority, then the phrase was unnecessary and unfortunate. If we assume that the recalcitrant minority were to determine whether the law was just and equal before it submitted to and obeyed it, then majority rule is an idle term and government by the majority hopeless and ineffective. There is no record of any law, constitution, act or ordinance framed and enacted under the provisions of the agreement, and while it is stated by Winslow and Bradford that some laws and orders were in fact enacted, it does not appear whether they were put in operation by the vote of all or only a majority of these signers. In view of the fact that only twenty of the forty-one signers survived the first year, it perhaps may be assumed that any law which was adopted expressed the will of all. There is nothing, however, in the phraseology of the Compact which declares the voice of the majority to be the voice of God, or that any individual is bound by any law which in his opinion is not just and equal.

It is important to consider the provisions of the charters and patents material to our inquiry.

The first charter from King James of date April 10, 1606, made provision for the establishment of two colonies or plantations in Virginia and other parts and territories in America.

The first colony, viz., the Southern or London Company, was authorized to locate between 34° and 41° north latitude. The second colony was authorized to locate between 38° and 45° north latitude. The territorial limits overlapped each other and provision was made that neither was to make a plantation within 100 miles of the other.

To the settlers and their children who are born within the limits of these colonies were granted all the liberties, franchises and immunities of Englishmen within the realm of England, and all lands were to be held "as of our manor of East Greenwich in the county of Kent in free and common socage only and not in capite," thus abolishing primo-geniture and granting the broadest possible title.

The second charter of May 23, 1609, gave to the London Company additional privileges and further enlarged their prior grant.

The third charter of March 12, 1612, further enlarged the boundaries of the London Company's prior grants and gave it additional privileges.

To the Virginia Company of London, the representatives of the Pilgrim Company made application for a patent which would authorize the location of a plantation in the new world.

The patent was taken by the advice of friends in the name of John Wincob, or more accurately, Whincop or Wincop, "a religious gentleman then belonging to the Countess of Lincoline."

The patent could not have included the territory where Plymouth is situated, which is north of the 42° north latitude, but "where it (the patent) is or how it came to be lost is not known to any that belong to the said colony."—Hubbard, p. 95.

In February, 1620, the Virginia Company passed the following order:

"It was ordered also by general consent that such captains or leaders of particular plantations that shall go there to inhabit by virtue of their grants and plant themselves, their tenants and servants in Virginia, shall have liberty till a form of Government be here settled for them, associating unto them divers of the gravest and discreetest of their companies, to make orders, ordinances and constitutions for the better ordering and directing of their servants and business provided they be not repugnant to the Laws of England." Records Vol. 1. p. 303.

Before the Pilgrims left Southampton a letter from John Robinson was received, which, as Bradford describes it, was "large" and "fruitful in itself and suitable to their occasion." In this letter Robinson refers to their "intended course of civill communitie," which, as he says, "will minister continual occasion of offence," and then proceeds to state—"Wheras you are become a body politik, using amongst yourselves civill governments," thus clearly anticipating the material purpose of the Compact, viz. the formation of a "civil body politic."

Robinson then refers to the fact that they "are not furnished with any persons of spetiall eminencie above the rest to be chosen by you into office of government. Let your wisdom and godlines appeare not only in chusing shuch persons as doe entirely love and will promote the commone good, but also yeelding unto them all due honour and obedience in their lawfull adminstrations." And again to the same effect that they are "at least for the present to have them only for your ordinarie governours which you yourselves shall make choyse of for that worke."

We find here in Robinson's letter the recognition of a "body politic," of a "civil government," of the election of officers by the members of the Company as an accomplished fact, and the direction to yield unto those elected into the offices of government "due honor and obedience in their lawful administrations." Then when all things were "ready, and every bussiness dispatched, the company was caled together and this letter read amongst them, which had good acceptation with all and after fruit with many," writes Bradford. And they chose a Governor and assistants for each ship to "order the people by the way and see to the dispossing of their provissions and shuch like affairs." When they executed the Compact at Cape Cod, they chose, "or rather confirmed" Mr. John Carver their Governor for that year.

It is not material to the inquiry to determine why Bradford made use of this expression, but the evidence seems to justify the conclusion that the body politic, the civil government, and the majority rule, which it is claimed the compact exemplifies and symbolizes for the first time, was fully determined and acted upon prior to the departure of the Mayflower from Southampton water.

On November 3-13, 1620, the charter for the Council for New England passed the seals on the Petition of Sir Ferdinando Gorges granting to the Duke of Lenox and his associates the territory from 40 to 48 degrees north latitude, with the same provision as to the tenure of land, and giving to the settlers "and their children, all the rights of natural born Englishmen." The Mayflower was then on the ocean westward bound. They had formed their civil body politic and had elected officers by the most voices.[1]

The Pilgrim company having adopted a polity, its form defined in this letter from the Pilgrim pastor and authorized by the provisions of their Patent, now find themselves, upon landing in the New World, outside of the territorial limits of the patent. So long as they remained on the ship the problem which confronted them was not serious. The master of the ship had the right and authority to enforce discipline whenever necessary, for the security of the vessel and the safety of the passengers. When the passengers have been landed and the master's authority over them is terminated, some practical method must be promptly adopted to maintain law, order and discipline and restrain any unruly and dissatisfied person in the company.

[1]"The body politic is formed by a voluntary association of individuals. It is a social compact by which the whole people covenants with each citizen and each citizen with the whole people that all shall be governed by certain laws for the common good."—(*Preamble of the Constitution of Massachusetts.*)

Now the obvious thing for a company of Englishmen, wisely led, to do under the then existing circumstances, was to enter into an agreement which shall carry into effect the existing plan under the new conditions with which they are surrounded and to follow, as nearly as may be, the language of the instrument which they had received before they sailed and under which they had so far proceeded in their voyage to the New World, until a new patent could be secured. It was not only the practical, sensible and natural thing to do, but there was a clear direction in the Order of the Virginia Company, passed inFebruary 1620, which authorized and justified the course adopted. Under that Order, before referred to, they had "liberty till a form of Government be here settled for them, of associatinge unto them divers of the gravest and discreetest of their companies to make orders and ordinances for the better orderinge and directing of their servants and business."

Of the 102 passengers on the Mayflower, 41 signed the Compact; and of the entire number 29 were female and 73 male passengers. Prof. Arber in his Story of the Pilgrim Fathers gives the number of adult males at 65. Later investigations lead to the conclusion that there were only 50 adult males. Of that number 7 were probably servants, 2 were seamen, hired under contract for a single year. Under the Order of the Virginia company, above referred to, there was no occasion for the servants to sign, for the purpose of the association was the better ordering and directing of the servants.

Upon the return of the Mayflower, which reached England in May 1621, a formal application through Sir Ferdinando Gorges, was made in behalf of the Plymouth settlers to the Council for New England. In Gorges' Description of New England (M.H.S. Coll. Third Series, Vol. VI, p. 73), he clearly states the course of procedure.

"After they had well considered the state of their affairs, and found that the authority they had from the Company of Virginia could not warrant their abode in that place, which they found so prosperous and pleasing to them, they hastened away their ship, with order to their Solicitor to deal with me to be a means they might have a grant from the council of New England's affairs to settle in the place; which was accordingly performed to their particular satisfaction and good content of them all; which place was after called New Plymouth, where they have continued ever since very peaceable and in all plenty of all necessaries that nature needeth, if that could satisfy our vain affections. Where I will leave them for the present."

The application was granted and on June 1, 1621, the patent issued to John Peirce and his associates, bearing the signatures of the Duke of Lennox, the Earl of Warwick, the Marquis of Hamilton, Lord Sheffield and Sir Ferdinando Gorges, and one other signature, now illegible.

This patent, the oldest state paper in New England, is now preserved in Pilgrim Hall in Plymouth.

The grant of land under this patent was one hundred acres for every person at any place in New England "not already inhabited by any English" at a yearly rental of two shillings for the term of seven years, and provided that at any time within seven years the Council would grant to Peirce and his "Associate Undertakers & Planters their heires and assignes" request, "Letters & Graunts of Incorporac̄on" with liberty "to make orders, Lawes, Ordynaunces and Constituc̄ons for the rule, governement, ordering and dyrecting of all persons," etc. Then follows the important and material provision:

"And in the meantyme untill graunt made it shall be lawfull for the said John Peirce his Associate Undertakers and Planters their heires and assignes by consent of the greater pt of them To establish such Lawes and ordynaunce as are for their better government and the same by such Officer or Officers as they shall by most voyces elect and chose to put in execuc̄on."

On the 9th of November, 1621, the "Fortune," a vessel of 55 tons with some 35 passengers, of whom the

adult males exceeded in number the survivors of the original signers of the Compact, arrived bringing the patent which gave them the full authority for their civil government. The patent was in terms more democratic than the Compact in that it more clearly defined the rule of the majority. The Compact had well served the temporary purpose and its further usefulness, except as a symbol, ended.

There is no record of any action under this Compact by the Pilgrim company, except the statement in Mourt's Relation that on Friday, the 23rd day of March, 1621, we "concluded both of Military Orders and of some Laws and Orders: as we thought behoveful for our present estate and condition. And did likewise choose our Governor for this year, which was Master John Carver, a man well approved amongst us," and the statement of Bradford in his History of Plymouth Plantation that "they mette and consulted of lawes and orders, both for their civil and military Govermente as the necessitie of their condition did require."

No copy of these "Laws and Orders" remains and there is no other evidence of their nature and purpose. The only references to the Compact found in the laws of the Colony of New Plymouth are in the recital of authority to make laws, declared at a meeting of the Governor and Assistants and members of the Committee for the Towns of Plymouth, Duxbury and Scituate, held on the 15th of November , 1636, at Plymouth, in which the "combinacon made at Cape Cod the 11th of November, 1620" and the letters patent of 1629 are referred to, and also in "A forme to be placed before the records of the several inheritances granted to all and every the King's subjects inhabiting with the government of New Plymouth." (Plymouth Colony Laws, p. 49.)

In this they define their authority for their government and base the title to their lands subsequent to the arrival at Cape Cod on the civil combination

formed at Cape Cod, Nov. 11, 1620, the treaty with Massasoit, who "freely gave them all the lands, adjacent to them, and their heirs forever," the charter to John Peirce and his associates "whose name we only made use of and the charter to William Bradford and his associates, whose name we likewise used and whose associates as formerly we are."

A fair construction of these formal declarations at the meeting of November 15, 1636, seems to establish that the Compact was temporary in its nature and superseded by the charter to John Peirce and his associates, before referred to, the provisions of which were further enlarged by the charter to William Bradford and his associates of 1629.

Of late years especially the philosophical historians and imaginative orators, as Dr. Young calls them, have described and defined this agreement as a constitution. A slight examination shows that the term "constitution" applied to this instrument is inaccurate and misleading.

The draughtsman clearly distinguished between the agreement which the Pilgrims signed, and a constitution, for the agreement in terms provides that later, or from time to time, they were to constitute and frame a constitution under and by virtue of their agreement. The agreement gave the authority to make a constitution, but the signers never thought that they had made a constitution when they combined themselves into a civil body politic. Nor does the term constitution, as applied to this agreement, find any support in our American use of the word.

"In American Constitutional law the word 'Constitution' is used in a restricted sense as implying the written instrument agreed on by the people of the Union, or any one of the states, as the absolute rule of action and decision for all departments and offices of the Government in respect to all the points covered by it which must control until it shall be changed by the authority which established it."

(Cooley, Constitutional Limitations," p. 3.)

Or better still, as Justice Miller defines it:

"A Constitution, in the American sense of the word, is a written instrument by which the fundamental powers of the government are established, limited and defined, and by which these powers are distributed among several departments for their more safe and useful exercise for the benefit of the body politic,"

and, he added,

"A search for a more satisfactory definition has been in vain, but this language perhaps fairly expresses the meaning of the term in this country."

If we will use the exact and admirable definition of Blackstone, the distinction between a compact and a law, ordinance, act or constitution is easily recognized and appreciated.

"A compact," writes Blackstone, "is a promise proceeding from us; a law is a command directed to us."

The Mayflower Compact was a promise not a command. Cotton Mather's analysis of the cause and effect of the Compact is well supported by the evidence.

"Finding at their arrival that whatever powers they had were made useless by the undesigned place of their arrival, they did as the light of nature itself directed them, * * * * sign an Instrument as a Foundation of their future and needful Governmenet."

The statement in Neal's History of New England (Ed. 1720) Vol. 1, p. 81, is to the same effect.

"But then there was an Inconvenience attending it, (their settling here) which was, That Cape Cod not being within the Limits of their Patent, the Powers they had received from the Crown of England would become void. But necessity has no Law, and therefore before they went ashore they entered into a solemn Combination to submit to such Laws as should by the Majority be approved of."

The claim often made for the Compact by some writers and orators, that it is the basis of our American Constitution, finds little support from any direct authority. So far as my examination goes, and I should be glad to be corrected by any gentleman present, it never was referred to by any statesman who took part in the constitutional conventions which

framed either the state or federal constitution, nor was it ever cited in the deliberations and discussions which preceded the final adoption of either of those important instruments. The Pilgrim story has sufficient to justify the admiration, respect and reverence of succeeding generations without making exaggerated or unfounded claims, the effect of which tends to weaken the real meaning and influence of their lives and labors, of their teachings and their example.

Among the many admirable qualities which characterized the great leaders of the Mayflower Company not the least important and effective was their sound common sense. Constrained by the imperious necessities of their present situation, they put into practical effect the civil policy already adopted under the only plan possible to make it immediately operative until they could secure the requisite authority under a second patent to govern and direct the persons and affairs of the members of the Company in their new and undesigned home.

"They did the work
They had to do;
They builded better
Than they knew,
So must the few whom fate
Selects to found a state."

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